

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

CHRIS ELROY LOVELESS,)
)
Plaintiff,)
)
v.) Case No. CIV-22-00941-JD
)
JIM PEEK, *et al.*,)
)
Defendants.)

ORDER

Plaintiff filed a pro se prisoner civil rights complaint on October 27, 2022. [Doc. No. 1]. He amended his complaint on November 8, 2022. [Doc. No. 6]. Plaintiff alleges claims under 42 U.S.C. § 1983 against numerous defendants associated with Grady County, Oklahoma, over a search warrant and his pretrial detention associated with a criminal case (CF-2022-00165) pending in Grady County, Oklahoma. *See generally* [Doc. Nos. 6, 6-1, 6-2, 6-3, 6-4].¹ The Court referred this action to United States Magistrate Judge Suzanne Mitchell for proceedings consistent with 28 U.S.C. § 636. [Doc. No. 3].

On November 9, 2022, United States Magistrate Judge Suzanne Mitchell granted Plaintiff's Motion for Leave to Proceed *in Forma Pauperis* [Doc. No. 7], and ordered Plaintiff to pay an initial partial filing fee of \$100.00 by November 30, 2022, followed by

¹ The Court takes judicial notice of the criminal docket in the District Court of Grady County (CF-2022-00165) through the Oklahoma State Courts Network (www.oscn.net (last accessed Mar. 29, 2023)). The state criminal docket reflects that Plaintiff posted bond and is on order of release, and that his criminal case is ongoing.

monthly payments thereafter until the total filing fee of \$350.00 was paid. [Doc. No. 9].²

Judge Mitchell cautioned Plaintiff that failure to pay the initial partial filing fee by November 30, 2022, or show cause in writing for failure to pay, would result in dismissal of this matter. Plaintiff did not timely pay the initial filing fee, and on December 21, 2022, Judge Mitchell issued a Report and Recommendation [Doc. No. 15] recommending that this action be dismissed without prejudice for Plaintiff's failure to pay the initial filing fee and follow Court orders.

Judge Mitchell advised Plaintiff of his right to object to the Report and Recommendation by January 11, 2023, and that Plaintiff's failure to make a timely objection waives the right to appellate review of the factual findings and legal issues in the Report and Recommendation. [Doc. No. 15 at 4]; *see also* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Plaintiff has not filed any timely objection, nor has he paid the required initial partial filing fee or any part of the filing fee. Plaintiff also has not sought any extensions of time to comply with the Court's orders; in fact, he has not filed anything in this action since Judge Mitchell issued the Report and Recommendation on December 21, 2022.

The Court therefore **ACCEPTS** the Report and Recommendation [Doc. No. 15] in its entirety for the reasons stated therein and **DISMISSES** this action **WITHOUT**

² Under 28 U.S.C. § 1915, although a court may authorize a prisoner to commence a civil action without prepayment of fees or security therefor in compliance with the statute, Congress has provided that "if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee." 28 U.S.C. §§ 1915(a)(1)–(2), (b)(1). The statute indicates how the court shall assess and collect both the initial partial filing fee and monthly payments until the filing fee is paid. *Id.* § 1915(b)(1)–(2). *See also* [Doc. No. 9].

PREJUDICE to refiling. The Court **DENIES** Plaintiff's remaining motions [Doc. Nos. 10, 11, 12, and 13] as moot.

IT IS SO ORDERED this 30th day of March 2023.



JODI W. DISHMAN
UNITED STATES DISTRICT JUDGE